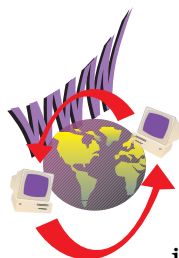


## What's New?

### Regulations

**Regulations** have been adopted after the July 17, 2002 regulation hearing. The new and amended regulations took effect November 12, 2002. Licensees received a postcard to request a printed copy of the bingo, pickle card, lottery and raffle, or county/city lottery regulation booklets. Many licensees find it convenient to access this information on our Web site.

### Web Site



**Charitable Gaming's Web site** has been reorganized based on the types of gaming activity. If you need a reporting form or an application quickly, try the Web site. Want to check a statute or regulation? Just hop on the information highway to check out the Charitable Gaming Web site! We continue to enhance our site features and options based on the feedback and requests we have been receiving from you.

Lots of positive responses have been received about the new user-friendly format which organizes the information you need based upon the type of gaming activity you want to conduct or have questions about. No more endless searching for that one form or application that pertains to your area of interest!

Updated or new information since last year includes reformatted statute booklets incorporating the 2002 legislative changes, the regulations that were effective November 12, 2002, an optional new form for ownership changes in county/city lottery, and a lottery or raffle flow chart to help you decide whether your lottery or raffle is required to be licensed. Check us out at **[www.revenue.state.ne.us/gaming](http://www.revenue.state.ne.us/gaming)**, and please continue to give us your ideas for further improving our service to you!

### Staff Spotlight



Ever wonder who you're talking to when you call Charitable Gaming with questions? There is a good bet it is Mary Gropp, our licensing specialist, who has been with the Department since 1988. Charitable Gaming is fortunate to have someone with such

a diverse background. She was born in Nuremberg, Germany, and raised in Los Angeles County, California, and is certainly well traveled and has many life experiences from which to draw. Her professional customer service skills are derived, in part, from her law enforcement background. She has served with the California Highway Patrol and as a Public Service Officer for the Lincoln Police Department. She and her husband, Duane, have three sons and two grandchildren. Mary enjoys talking with you and answering your questions. Her most frequently asked question: "Is bingo gambling?" The next time you call, ask her about her horses; her love for animals is unparalleled. Mary is looking forward to hearing from you!

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## Department Anticipates Reg Hearing Before Year's End

Charitable Gaming staff members are in the process of drafting amendments to several gaming regulations, and we hope to have a public hearing on the proposed changes before the end of 2003. Most likely to be considered before the end of the year will be minor modifications to several bingo regulations

which are needed as a result of the passage of LB 429 this year, and several changes relating to the conduct of keno by counties, cities, and villages.

The bingo regulations must be amended to reflect the intent of the Legislature in passing LB 429 that a paperless form of bingo be permitted in Nebraska. Current regulatory restrictions and requirements regarding disposable paper bingo cards that must be

*(continued to page 3)*

### NEBRASKA DEPARTMENT OF REVENUE

**STATE TAX COMMISSIONER — MARY JANE EGR**

**Director of Charitable Gaming and Investigative Services — Jim Haynes**

**Charitable Gaming Managers — Gerald Otoupal and Steve Schatz**

#### WHO TO CONTACT FOR.....

##### Audits, Annual and Quarterly Reports, and Tax Returns

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Gene Weiner (402) 471-5953 eweiner@rev.state.ne.us  
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##### Pickle Card Receipt Books

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##### Licenses, Authorizations, Permits, Device Decals, and Forms

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##### Bingo, Pickle Card, and Lottery/Raffle Game Conduct

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##### County/City Lottery Game Conduct

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*Colfax, Dodge, Douglas, Washington:*

Roy Abbott (402) 595-2060 rabbott@rev.state.ne.us

*Butler, Cass, Douglas, Sarpy, Saunders:*

David Farkas (402) 595-2048 dfarkas@rev.state.ne.us

*Adams, Blaine, Boone, Brown, Buffalo, Clay, Custer, Dawson, Franklin, Frontier, Furnas, Garfield, Gosper, Greeley, Hall, Hamilton, Harlan, Howard, Kearney, Keya Paha, Loup, Merrick, Nance, Nuckolls, Phelps, Polk, Red Willow, Rock, Sherman, Valley, Webster, Wheeler:*

Carol Hiser (308) 385-6021 chiser@rev.state.ne.us

*Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, York:*

Jeff Oliver (402) 471-5748 joliver@rev.state.ne.us

*Antelope, Boyd, Burt, Cedar, Cuming, Dakota, Dixon, Holt, Knox, Madison, Pierce, Platte, Stanton, Thurston, Wayne:*

Bob Shelbourn (402) 370-3352 bshelbou@rev.state.ne.us

*Arthur, Banner, Box Butte, Chase, Cherry, Cheyenne, Dawes, Deuel, Dundy, Garden, Grant, Hayes, Hitchcock, Hooker, Keith, Kimball, Lincoln, Logan, McPherson, Morrill, Perkins, Scotts Buff, Sheridan, Sioux, Thomas:*

Ken Stute (308) 632-1202 kstute@rev.state.ne.us

**Toll Free (877) 564-1315**

**Local 471-5937**

**FAX (402) 471-5600**

**Visit our Web site at: [www.revenue.state.ne.us/gaming](http://www.revenue.state.ne.us/gaming)**

#### Compulsive Gamblers Assistance

Problem Gambling Help Line (800) 560-2126

- Gamblers Anonymous (Lincoln) (402) 473-7933
- Gamblers Anonymous (Omaha) (402) 978-7557

- Gamblers 12 Step & Family (Omaha) (402) 978-7899
- National Council on Problem Gambling (800) 522-4700

For information on problem gambling and how to get help in Nebraska, please visit the Nebraska Council on Compulsive Gambling at [www.nebraskacouncil.com](http://www.nebraskacouncil.com).

**IRS - Exempt Organization Customer Account Services (877) 829-5500**

**IRS - Exempt Organization Web site [www.irs.gov/eo](http://www.irs.gov/eo)**

(continued from page 2)

used in conjunction with card monitoring devices and requiring players using such devices to mark disposable paper bingo cards, need to be modified.

With respect to keno, there are several regulations which have not been amended since their original adoption in 1990. The most significant changes are contemplated in Regulation 35-613 Conduct of the Game - Keno. A preliminary draft was discussed with several lottery operators last December. Based on the input we received at that time, additional changes have been made and a revised draft has been sent to interested parties for comment. **If you are interested in reviewing the proposed changes to Regulation 35-613, please contact Linda Knox at (402) 471-5945 or e-mail her at [lknox@rev.state.ne.us](mailto:lknox@rev.state.ne.us) or Steve Schatz at (402) 471-5943 or e-mail him at [sschatz@rev.state.ne.us](mailto:sschatz@rev.state.ne.us).** Other county/city lottery regulations which require updating include Regulation 35-602 - Expenses, 35-603 - County and City Lottery Taxes, 35-604 Record Keeping and Reporting Requirements, and 35-616 - Keno Audit.

Finally, if time permits, we may also try to address certain aspects relative to the marketing of pickle cards and pickle card dispensing devices, as well as the conduct of lotteries and raffles.

## **License Renewals and Officer Changes**

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Nonprofit organizations which have tax exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code and all pickle card operators should have received their renewal applications in mid-June to renew their licenses for the October 1, 2003, through September 30, 2005 license period. Pickle card operator applications are to be filed no later than August 1, 2003, and nonprofit organization renewal applications are to be filed no later than August 15, 2003.

Nonprofit organizations with tax exempt status other than section 501(c)(3) or 501(c)(4) will not renew their licenses this year. However, these organizations should have received a blank copy of the appropriate officer page to report any changes in their officers occurring since the last renewal period.

Please remember that licensees are responsible for keeping all licensing information on file with the Charitable Gaming Division current. Any

changes which occur during the licensing period must be promptly reported to our office. If you need to report changes, please contact Carri Fitzgerald at (402) 471-5949 or Mary Gropp at (402) 471-5939 to obtain the proper form.

## **Annual Reports Due From Every Organization**

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Annual reports for EVERY nonprofit organization were also mailed in mid-June. Even if your organization does not have to renew their gaming license this year, an annual report is still due in our office no later than August 15, 2003. Don't forget that you may complete your annual report online by going to our Web site to find the correct form required to be filed by your organization. Once the report is completed, print it out, make a copy for your records, and send the original to the Department.

**Please note that gaming licenses will not be issued until complete and accurate annual reports are received for all of the organization's licensed gaming activities.** A late or incomplete annual report may result in a delay in licensing and/or the imposition of an administrative fine of up to \$1,000. If you are in the first year of a biennial license, you must file a complete report on time or administrative action may be taken which could include a suspension of your license.

## **Proration of Biennial License Fees**

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Effective November 12, 2002, the Department has the authority to prorate license fees. If a new application is received by the Department for a license which will become effective on or after the beginning of the second year of the biennial licensing period, the applicable license fee is one-half of the biennial fee. No license fee is refundable for any portion of the licensing period in which the license is not used. If you pay the full biennial fee, but are not licensed during the first year, the excess will be refunded.

# 2003 LEGISLATIVE UPDATE

## 2003 Unicameral Debates Future of Casinos in Nebraska

The Nebraska Legislature adjourned without any further consideration being given to a constitutional amendment which would authorize casino gambling in Nebraska. Several legislative resolutions concerning casino gambling were introduced this legislative session with LR11CA being the only proposal advanced by the General Affairs Committee. The proposal advanced by the Committee was subsequently amended by the entire Legislature and in its current form would allow the Legislature to authorize up to eight casino facilities in Nebraska. LR11CA, as amended, failed to advance to the final stage of debate prior to the Legislature adjourning. The constitutional amendment requires 30 votes in order for the issue to be placed on the November, 2004 general election ballot. Since this was the first session of the Ninety-Eighth Legislature, LR11CA will be carried over to next year's session for possible further consideration.

If LR11CA is approved next year by the Legislature and subsequently approved by a vote of the people, it would also allow the state to negotiate with Native American tribes to develop compacts allowing casino gaming on Native American lands.

### **LB 429 Eliminates Paper if Using Bingo Card Monitoring Devices**

While a number of other charitable gaming-related bills were introduced this year, several of those proposals were killed or "indefinitely postponed," and the Nebraska Legislature ended its 2003 session on May 30 by enacting only one minor gaming bill changing some provisions within the Nebraska Bingo Act. That bill was LB 429 introduced by Senator Hartnett of Bellevue and it relates to the use of bingo card monitoring devices. The bill contained clarifying language to permit the use of bingo card monitoring devices without the need to print or provide bingo players with paper copies of the electronic facsimiles of the



bingo cards downloaded to such devices. LB 429 carried an emergency clause and became effective on April 3, 2003.

### **General Affairs Committee Kills Lottery/Raffle Proposal**

As a result of an interim study held last fall, a major rewrite of the Nebraska lottery and raffle laws was introduced this past legislative session in the form of LB 782. A public hearing for LB 782 was held by the Committee on March 10, 2003. Testimony was presented by the Department of Revenue as well as by representatives of Nebraska nonprofit organizations involved in conducting lotteries and raffles for fund raising purposes, both of whom were hoping for some possible simplification of the laws in this area. However, after hearing the testimony, the General Affairs Committee decided to indefinitely postpone LB 782. It is unknown at this time if a future proposal will be introduced.

### **LB 367 Changes Distribution of State Lottery Funds for Five Years**

LB 367, which was signed by the Governor on May 13, 2003, changes the amount of money transferred from state lottery proceeds to the Education Innovation Fund, the Nebraska Environmental Trust Fund, and the Compulsive Gamblers Assistance Fund for a period of five years. During the five years, these funds are guaranteed to receive no less than they received in fiscal year 2002-2003. After October 1, 2008, the amount these funds receive will return to 25 percent of the lottery proceeds. During the five year period starting October 1, 2003, a lesser portion of the dollar amount of lottery tickets which have been sold for that year will go to the funds. This is intended to provide additional funds to the State Lottery to increase some prizes and to promote their games with the goal of increasing play.

## “Carry-over” Legislation

Even though LB 429 was the only gaming bill enacted, the 2003 session was actually the first half of a biennium meeting of the Nebraska Legislature. This means there will be several pieces of “Carry-over Legislation.” “Carry-overs” are bills and resolutions introduced during the regular session in an odd-numbered year which are held over for consideration during the regular session in an even-numbered year. Following is a list of gaming-related “Carry-over” bills which will still be active when the 2004 session begins in January:

**LR11CA** To authorize casino gambling in Nebraska

**LB 189** Permits nonprofit credit unions to conduct gift enterprises

**LB 309** Authorizes the use of electronic pickle card and keno devices

In addition, it is possible that more gaming-related legislation may be introduced when the 2004 session begins. If you are interested in obtaining a copy of any legislative bills, you can do so through the Nebraska Legislature’s official Web site at **[www.unicam.state.ne.us](http://www.unicam.state.ne.us)** or by calling their 24-Hour Request Line at (402) 471-2877.

## Notice of Keno Inspections



Charitable Gaming Division inspectors are conducting inspections of the keno activity in addition to the normal inspections conducted on the pickle card activity. The inspectors are visiting lottery operator and sales outlet or satellite locations to audit the cash drawers of keno writers

by requesting a drawer status report and reconciling the cash in the drawer to such reports. In addition, the inspectors are verifying that all individuals acting as lottery workers during the inspection are properly licensed. For this reason, please be advised that lottery workers may be requested to show proper identification.

The inspector examines the cash drawer reconciliations required to be maintained by the operator for the history of cash shortages or overages. As part of the inspection, the operator’s keno bank account is examined to determine if the operator is making deposits on a reasonable basis and the disbursements are for prizes, allowable expenses, community betterment, or to a prize reserve account.

The inspectors will identify themselves to the keno manager. Each inspector will have a Department of Revenue Identification and will leave a business card with the manager or writer.

If you have any questions about the pending inspections, the proper identification, or the inspection procedure, please contact Gerald Otoupal at (402) 471-5940 or e-mail him at **[jotoupal@rev.state.ne.us](mailto:jotoupal@rev.state.ne.us)**.

## Keno Writers Are Not to Play While on Duty or to Extend Credit

Each newsletter includes an article entitled “Administrative Actions” summarizing the Department’s final determination of various situations requiring legal action. Some of these situations may also be adjudicated in court. Recently, a keno writer forgot to review the county/city lottery law and regulations or his lottery operator’s rules before placing a wager on credit. At the end of his shift, his keno cash drawer was short due to his net losses. He later repaid the amount missing to balance his drawer, but he was fired as a keno writer. In addition, he was charged with felony counts of playing while on duty and extending credit. He was recently sentenced to 6 months probation, 50 hours of community service, ordered to pay a \$500 fine plus court costs, and ordered to be screened for compulsive gambling and to abide by whatever is determined by the screening. A very costly evening of inappropriate entertainment while at work.

Remind your keno writers that playing keno while on duty or extending credit to anyone playing keno is against the law. Infractions will be dealt with appropriately.



# Administrative and Court Actions

The following cases reached final administrative determination since the last issue of **CG News**.

**In the Matter of Sheri Blair, Bloomington, Docket #2002-016-35G:**

The Department of Revenue alleged that Ms. Blair had previously been convicted of a felony involving distribution of methamphetamines and, as a result, sought to deny her county/city lottery worker license application. Prior to hearing, the Department was informed that Ms. Blair had voluntarily resigned her position with the sales outlet location for which she had applied and the case was subsequently dismissed.

**In the Matter of Depot Restaurant & Lounge, Alma, Docket #2002-018-35G:**

The Department initiated an action to fine Depot Restaurant & Lounge \$500. In support of its motion, the Department alleged that Depot Restaurant & Lounge had violated the Nebraska County and City Lottery Act by allowing one of its employees to perform work directly related to the conduct of the lottery without first completing, signing, and filing a lottery worker license application with the Department. Depot Restaurant & Lounge waived its right to an administrative hearing and, without admitting liability, paid a negotiated fine of \$250. An order dismissing the case was subsequently issued.

**In the Matter of Community Lottery Systems, Inc., d.b.a. Lotto Nebraska, Columbus, Docket #2002-019-35G:** The Department of Revenue initiated an action to fine Lotto Nebraska \$500. In support of its motion, the Department alleged that Lotto Nebraska had violated the Nebraska County and City Lottery Act when one of its licensed sales outlet locations allowed an employee to perform work directly related to the conduct of the lottery without first completing, signing, and filing a lottery worker license application with the Department. Prior to hearing, Lotto Nebraska provided the Department with evidence of several control and compliance measures it had implemented in an effort to prevent future occurrences such as those which formed the basis of the Department's allegation.



Accordingly, an order dismissing the case was issued.

**In the Matter of Alice Dyer, Alma, Docket #2002-020-35G:**

The Department initiated an action to fine Ms. Dyer \$100, alleging that during her employment at Depot Restaurant & Lounge, she had violated the Nebraska County and City Lottery Act by performing work directly related to the conduct of the lottery without first completing, signing, and filing a lottery worker license application with the Department. Prior to hearing, Ms. Dyer voluntarily resigned her position at Depot Restaurant & Lounge and an order dismissing the case was issued.

**In the Matter of Lori L. Kinart, Hastings, Docket #2002-024-35G:** The Department alleged that Ms. Kinart had previously been convicted of a misdemeanor related to issuing an insufficient funds check and, as a result, sought to deny her county/city lottery worker license application. Prior to hearing, the Department was informed that Ms. Kinart had voluntarily resigned her position with the lottery operator for which she had submitted her application and the case was subsequently dismissed.

**In the Matter of Desirae Rein, Gering, Docket #2002-025-35G:** The Department alleged that Ms. Rein had previously been convicted of a misdemeanor related to forgery and, as a result, sought to deny her county/city lottery worker license application. Prior to hearing, Ms. Rein waived her right to an administrative hearing and agreed to serve a six-month waiting period before becoming licensed. Accordingly, the Department's case was dismissed.

**In the Matter of Angie Johnson, Crawford, Docket #2002-026-35G:** The Department alleged that Ms. Johnson had previously been convicted of a misdemeanor related to issuing an insufficient funds check and, as a result, sought to deny her county/city lottery worker license application. Prior to hearing, the

Department was informed that Ms. Johnson had voluntarily resigned her position with the sales outlet location for which she had applied and the case was subsequently dismissed.

**In the Matter of Wag's Well, Inc., d.b.a. Wagner's Well, Humphrey, Docket #2002-027-35G:** The Department initiated an action to suspend Wag's Well, Inc.'s pickle card operator's license for a six-month period. In support of its motion, the Department alleged that the owner of Wag's Well, Inc., had previously been convicted of a misdemeanor involving possession of an illegal gambling device. Wag's Well, Inc., waived its right to an administrative hearing and entered into a settlement agreement with the Department, pursuant to which ninety percent of Wag's Well, Inc.'s pickle card profit for a six-month period was retained by the nonprofit organization for which Wag's Well sold pickle cards. The Department's case was subsequently dismissed.

**In the Matter of Midway Lounge, Lyons, Docket #2002-032-35G:** The Department sought to deny Midway Lounge's pickle card operator license application based on allegations that Midway Lounge's owner had previously been convicted of a misdemeanor involving possession of an illegal gambling device and had failed to disclose that fact on his application. Following a formal hearing, Midway Lounge's pickle card operator license application was denied pursuant to administrative order.

**In the Matter of Cheryl A. Nichols, Morse Bluff, Docket #2002-033-35G:** The Department of Revenue alleged that Ms. Nichols had previously been convicted of a misdemeanor involving the issuance of an insufficient funds check and had failed to disclose that information on her county/city lottery worker license application. As a result, the Department sought to deny Ms. Nichols' application. Following a formal hearing, Ms. Nichols' application was denied pursuant to administrative order.

**In the Matter of Vidal Salazar, Scottsbluff, Docket #2002-034-35G:** The Department alleged that Mr. Salazar had previously been convicted of a felony involving possession of marijuana. As a result, the Department sought to deny Mr. Salazar's county/city lottery

worker license application. Following a formal hearing, Mr. Salazar's application was denied pursuant to administrative order.

**In the Matter of Locke-N-Crew, Inc., d.b.a. Varieties Bar & Grill, Bellevue, Docket #2002-035-35G:** The Department alleged that a Lock-N-Crew, Inc., shareholder had previously been convicted of a misdemeanor related to theft by deception and, as a result, sought to deny Locke-N-Crew, Inc.'s sales outlet location license application. Prior to hearing, the Department was informed that the shareholder in question had been terminated from employment by Lock-N-Crew, Inc., and was not, in fact, a shareholder of the corporation. Accordingly, the case was dismissed.

**In the Matter of Spring Inn, Omaha, Docket #2002-036-35G:** The Department initiated an action to fine Spring Inn \$250. In support of its motion, the Department alleged that Spring Inn had violated the Nebraska County and City Lottery Act by allowing one of its employees to perform work directly related to the conduct of the lottery without first completing, signing, and filing a county/city lottery worker license application with the Department. Spring Inn waived its right to an administrative hearing and, without admitting liability, paid the proposed fine of \$250. An order dismissing the case was subsequently issued.

**In the Matter of Tina Taber, Beemer, Docket #2002-038-35G:** The Department alleged that Ms. Taber had previously been convicted of a misdemeanor involving the issuance of an insufficient funds check and, as a result, sought to deny Ms. Taber's county/city lottery worker license application. Following a formal hearing, Ms. Taber's application was denied pursuant to administrative order.

**In the Matter of Brandy Miller, Howells, Docket #2002-039-35G:** The Department alleged that Ms. Miller had previously been convicted of a felony involving possession of a controlled substance with intent to deliver and, as a result, sought to deny her county/city lottery worker license application. Prior to hearing, the Department was informed that Ms. Miller had voluntarily resigned her position with the sales outlet location for which she had submitted her application and the case was subsequently dismissed.

**In the Matter of Bellevue Keno Casino, Inc., Docket #2002-040-35G:** The Department initiated an action to fine Bellevue Keno Casino, Inc., \$250. In support of its motion, the Department alleged that Bellevue Keno Casino, Inc., had violated the Nebraska County and City Lottery Act when one of its licensed sales outlet locations allowed an employee to perform work directly related to the conduct of the lottery without first completing, signing, and filing a lottery worker license application with the Department. Bellevue Keno Casino, Inc., waived its right to an administrative hearing and, without admitting liability, paid the proposed fine of \$250. An order dismissing the case was subsequently issued.

**In the Matter of Kim Masek, Bellevue, Docket #2002-041-35G:** The Department alleged that Ms. Masek had previously been convicted of a misdemeanor involving theft and, as a result, sought to deny Ms. Masek's county/city lottery worker license application. Following a formal hearing, Ms. Masek's application was denied pursuant to administrative order.

**In the Matter of Omaha Peewees Booster Club, Papillion, Docket #2002-044-35G:** The Department initiated an action to suspend Omaha Peewees Booster Club's license to conduct bingo for a six-month period. In support of its motion, the Department alleged that Omaha Peewees had violated the Nebraska Bingo Act by failing to file a complete and accurate annual report of its bingo activities conducted from July 1, 2001, through June 30, 2002, by August 15, 2002. Omaha Peewees Booster Club subsequently filed an annual report for the above-mentioned period and the case was dismissed.

**In the Matter of Wheeler Inn, Auburn, Docket #2003-001-35G:** The Department initiated an action to fine Wheeler Inn \$2,000 for allegedly violating the Nebraska County and City Lottery Act. In support of its motion, the Department alleged that Wheeler Inn's owner had played the lottery conducted at Wheeler Inn and that a licensed lottery worker

employed at Wheeler Inn had played the lottery on credit while on duty. Wheeler Inn waived its right to administrative hearing and, without admitting liability, paid the proposed fine of \$2,000. An order dismissing the case was subsequently issued.

**In the Matter of Papillion Keno, Inc., Papillion, Docket #2003-002-35G:** The Department initiated an action to fine Papillion Keno, Inc., \$3,000 for allegedly violating the Nebraska County and City Lottery Act. In support of its motion, the Department alleged that a keno manager employed at Papillion Keno, Inc., had extended credit to a player from the gross proceeds of the lottery and had accepted wagers after 1:00 a.m. and before 6:00 a.m. Papillion Keno, Inc., waived its right to administrative hearing and, without admitting liability, paid a negotiated fine of \$2,000. An order dismissing the case was subsequently issued.

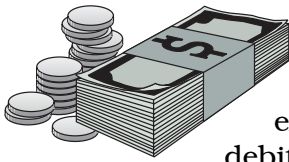
**In the Matter of Aqua Gem, Inc., d.b.a. Skirts Foods & Spirits, Omaha, Docket #2003-003-35G:** The Department initiated an action to fine Aqua Gem, Inc., \$100. In support of its motion, the Department alleged that a licensed lottery worker employed at Aqua Gem, Inc., had accepted a \$20 check from a keno customer and, rather than cashing the check from the bar's general account, had placed the check in the keno drawer. Aqua Gem, Inc., waived its right to administrative hearing and, without admitting liability, paid the proposed fine. An order dismissing the case was subsequently issued.

**In the Matter of St. Agnes Church, Omaha, Docket #2003-006-35G:** The Department initiated an action to fine St. Agnes Church \$100. In support of its motion, the Department alleged that the licensed pickle card organization had sold one unit of pickle cards to an unauthorized pickle card operator. St. Agnes Church waived its right to administrative hearing and, without admitting liability, paid the proposed fine. An order dismissing the case was subsequently issued.

**Since the last issue of CG News, the Department has issued 46 intent to deny letters and denied 24 licenses. There have been no orders issued to cease and desist from violating charitable gaming laws since May 2001.**



## **Keno Wagers in U.S. Currency Only**



All wagers in keno games must be in United States currency. It is illegal to extend credit or to accept debit or credit cards or checks from a person wishing to place keno wagers. A cash advance may not be given a player. In other words, a player must present U.S. currency to place a keno wager. A valid gift certificate or free play keno coupon is treated the same as cash as long as the value is included in the gross proceeds of the lottery.

A lottery worker is not to accept a personal or bank check, a cashier's check, any foreign currency, or a bank card, whether a debit card or a credit card, to place a wager on a keno game. A check may not be cashed from the keno account or keno proceeds drawer. The only exception would be a check issued to the player by the lottery operator, sales outlet location, or county, city, or village for keno winnings.

If the lottery operator or sales outlet location cashes a check from their personal or non-keno business accounts or funds, that is acceptable. Just remember how this looks to other persons in your business at the time. Unsubstantiated complaints are periodically received that a lottery operator or a sales outlet location was cashing a check for a keno wager when the facts show the check was cashed from the bar's drawer or owner's personal funds rather than the keno drawer.

## **First Renewals of County/City Lottery Workers Completed**

For the first time since county/city lottery workers have been licensed, all worker licenses expired on May 31, 2003, unless previously renewed by the county, city, or village. Each county, city, or village with licensed lottery workers as of late February 2003 was sent a renewal form with a list of current licensees per our records. The information was to be verified and an indication made as to whether or not to renew each licensee before the form was signed by an authorized individual and returned to the Department. New workers licensed since

the lists were sent to the counties, cities, and villages should have been licensed through May 31, 2005. This renewal will be completed biennially in odd-numbered years.

Remember that we do not issue printed licenses for lottery workers, but it is the responsibility of the lottery operator and the county, city, or village to confirm that all active workers are properly licensed by verifying actual licensees per Department records. The county, city, village, or lottery operator may access the information on Charitable Gaming's Web site at **[www.revenue.state.ne.us/gaming](http://www.revenue.state.ne.us/gaming)** or you may contact our licensing staff.

## **County/City Lottery Worker Criminal Background Checks**

The Department has determined that it is no longer cost effective for our office to continue to perform the criminal background investigation of every lottery worker license applicant. As stated in the April 30, 2003 letter that was sent to all licensed counties, cities, villages, and lottery operators, this change was effective June 1, 2003. We are now performing a few background checks on a selective or random basis.

The consequence of our decision is that a greater responsibility is placed on the counties, cities, villages, and lottery operators to determine the license suitability of the individuals who work at their lotteries. Neb. Rev. Stat. §9-631.01(2) does require the county, city, village or its designated authorized representative to approve each lottery worker license application for submission to the Department. If you or your lottery operator choose not to perform any type of criminal checks on your lottery workers, that is your prerogative. However, you do so at your own risk.

This change does not affect the requirement that every person designated as a keno manager or who has authority over the verification of winning number selection in a manual ball draw game be fingerprinted for criminal background investigation purposes. The workers verifying winning numbers in a ball draw game are to be fingerprinted prior to a permanent license being granted by this Department.

## County/City Lottery Record Retention

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In 1997, the State Records Administrator approved a records retention and disposition schedule for Nebraska County/City Lottery Records - Schedule 59. This schedule did not revise any of the county/city lottery

records retention information previously provided to licensees by the Charitable Gaming Division and adhered to the record retention requirements contained in Neb. Rev. Stat. §9-650 (Reissue 1997), of the Nebraska County and City Lottery Act and the County and City Lottery Regulations. A copy of Schedule 59 may be obtained upon request from our office or may be printed from our Web site, **[www.revenue.state.ne.us/gaming](http://www.revenue.state.ne.us/gaming)**.

Schedule 59 has not been modified since its original approval in 1997 and is still the reference document for counties, cities, and villages to use when considering disposal of records relating to their keno lottery activities. Unless Schedule 59 specifies otherwise, in general, keno lottery records are to be retained for a minimum of three (3) years and may not be disposed of unless the records were included in a required compliance audit conducted by an independent certified public accountant pursuant to the **Agreed-Upon Procedures and Annual Examination for Counties, Cities, and Villages** adopted by the Charitable Gaming Division. In addition, keno lottery records relating to the payment of any winning tickets may be subject to longer retention schedules imposed by the IRS than those specified in Schedule 59. Before disposing of any of these records, you should check with the IRS, Excise Tax Division. Please note that Schedule 59 not only identifies how long keno lottery records must be retained, but it also requires that a Records Disposition Report be completed and submitted to the Records Management Division of the Secretary of State's Office. **It is the responsibility of the sponsoring county, city, or village to comply with the Records Retention Schedule, not the lottery operator's.**

We are currently evaluating Schedule 59 to determine if any modifications or updates are in order. We have received comments from

some of the lottery operators as to possible changes. If you have any changes you would like us to consider, please feel free to call Steve Schatz at (402) 471-5943 or e-mail your comments to **[sschatz@rev.state.ne.us](mailto:sschatz@rev.state.ne.us)**.

## County/City Lottery News Briefs

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**Total dollars wagered on keno** for the period April 1, 2002, through March 31, 2003, were \$180,135,436. This represents an increase of almost four percent as compared to the total dollars wagered on keno for the previous twelve-month period (\$173,335,581). Total dollars wagered on keno for the period January 1, 2003, through March 31, 2003, were \$47,071,546, which represents an increase of just over four percent as compared to the previous quarter, October 1, 2002, through December 31, 2002 (\$45,221,354).

The communities approving a county/city lottery since our last newsletter include the City of Wymore on May 20, 2003; the Village of Odell on April 22, 2003; the Villages of Bartlett, Dannebrog, Dorchester, Naponee, North Loup, and Orchard on November 5, 2002; and the City of Osceola and the Village of Riverton on May 14, 2002. The Village of Callaway defeated the county/city lottery on November 5, 2002. We are not aware of any other elections since April of 2002 although a few communities have indicated interest in county/city lottery activity. If you know of other elections held on the approval of a county/city lottery, please notify our office.

New communities licensed since May 2002 include Hitchcock County, the City of Osceola, and the Villages of Bartlett, Bertrand, Dannebrog, Dorchester, Naponee, Odell, Orchard, and Riverton. Dorchester contracted with Zeilinger Keno Partnership as its lottery operator and Odell entered an interlocal agreement with the City of Beatrice and conducts a joint lottery with Beatrice's Big Red Lottery Services, Ltd. as its lottery operator. The rest of these new communities became members of the Nebraska Cooperative Government which contracts with Lotto Nebraska. Since our last newsletter, the Village of Hebron resumed its county/city lottery activity with Danell L. Kovacs, doing business as Brand X Saloon, as the lottery operator while the City of Tecumseh discontinued its lottery. Ronald L. Lade, doing business as

Harvest Bowl, was the lottery operator in Tecumseh.

The communities licensed through May 31, 2004, that are inactive as of this publication include Arthur County, the Cities of Cambridge and O'Neill, and the Villages of Duncan, Dwight, Eagle, Kilgore, Milligan, and Riverton. Zeilinger Keno Partnership is the licensed lottery operator for Milligan and Lotto Nebraska was the last lottery operator for the rest of these communities.

### **Are Lucky Tab II Pickle Card Dispensing Devices Legal?**

Our office has received many inquiries recently regarding the permissibility of nonprofit organizations using the Lucky Tab II pickle card dispensing device to sell their pickle cards. A recently publicized court decision involving the use of the device by the Santee Sioux Nation at its Ohiya Casino has prompted the inquiries.

The Lucky Tab II pickle card dispensing device dispenses pickle cards in the traditional manner. However, the pickle cards are encoded with a bar code which is scanned by the device in order to produce a video display of the winning or losing combinations of the pickle card. The device does not award credits or pay out cash for a winning pickle card. A player is required to present the pickle card dispensed by the device to a cashier for payment of any winnings.

In December 2001, the District Court of Nebraska in *United States of America vs. Santee Sioux Tribe of Nebraska* concluded that the Lucky Tab II dispensing device was a technological aid to the game of pull-tabs (pickle cards) and, therefore, was a Class II device under the Indian Gaming Regulatory Act (IGRA). If the Court had determined that the Lucky Tab II was a Class III device under IGRA, the continued use of the device at the Ohiya Casino would not have been permitted. The U.S. Attorney for the District of Nebraska subsequently appealed the District Court's decision. On March 20, 2003, the Eighth Circuit Court of Appeals affirmed the judgement of the District Court and concluded that the Lucky Tab II devices were not prohibited Johnson Act gambling devices and were not prohibited "facsimiles" within the meaning of U.S.C. § 2703(7) and the Santee Sioux Nation was not conducting Class III gaming in contravention of the federal court's prior order.

### **The recent court decisions regarding the Lucky Tab II pickle card dispensing device relate only to the continued use of the device by the Santee Sioux Nation.**

In 1997, LB 723 was introduced in the Nebraska Legislature to authorize the use of electronic pickle card dispensing devices which use an electronic scanning device to read an encoded identification number on each pickle card dispensed and display the winning amount or internal prize symbols of the pickle card by electronic or video means prior to opening of the pickle card. The legislation was introduced in response to an Attorney General's Opinion requested by the Department of Revenue relative to the permissibility of the operation of pickle card dispensing devices with video display capability under the Nebraska Pickle Card Lottery Act. Although the opinion was not specifically addressed to the Lucky Tab II device, the technological features of a proposed prototype device were along the same lines as the Lucky Tab II. The Attorney General concluded in Opinion 97004 that the incorporation into and use of the bar code feature and video display mechanism as part of a pickle card dispensing device was inconsistent with current provisions of the Nebraska Pickle Card Lottery Act and that legislative action would be required before pickle card dispensing devices of this nature could legally be used in Nebraska. LB 723 was not advanced by the General Affairs Committee and indefinitely postponed.

In 2002, Senator Beutler introduced LB 1247, primarily in response to the U. S. District Court's decision in *United States of America vs. Santee Sioux Tribe of Nebraska* that the Lucky Tab II dispensing device was a Class II gaming device under IGRA. The bill was advanced by the General Affairs Committee and designated as its priority bill. However, no further consideration was given to the bill during the session.

**Based on the Attorney General's opinion issued in 1997, the use of a pickle card dispensing device incorporating bar code technology and a video display capability is not specifically authorized under the Nebraska Pickle Card Lottery Act. In order for nonprofit organizations to use the Lucky Tab II pickle card dispensing device to dispense their pickle cards, enabling legislation would be required. There is no legislation currently pending in the Nebraska Legislature which would authorize the use of the device.**

# Gaming Calendar

<b>July 2003</b> <b>4 All State Offices Closed</b> - Independence Day <b>30 Form 51 Tax Return and Applicable Schedule(s) Due.</b> Must be postmarked no later than July 30.	<b>December 2003</b> <b>25 All State Offices Closed</b> - Christmas Day <b>31 2003 Pickle Card Dispensing Device Registrations and Decals expire at Midnight.</b> Organizations and pickle card operators must have a 2004 decal affixed to any dispensing device in use after midnight or cease using such device. <b>2003 Mechanical Amusement Device Licenses and Decals expire at Midnight.</b> Operators and distributors must have a 2004 decal affixed to any dispensing device in use after midnight or cease using such device. <b>Last Day of Quarter (October 1 through December 31)</b>
<b>August 2003</b> <b>1 Pickle Card Operator Renewal Applications Due.</b> Pickle card operators must have their license renewal applications postmarked no later than August 1. <b>15 Bingo, Pickle Card, Lottery/Raffle, Commercial Lessor, Manufacturer, Distributor, and Manufacturer-Distributor License Renewal Applications Due</b> for licenses that expire <b>September 30, 2003.</b> Organizations, utilization of funds members, sales agents, gaming managers, commercial lessors, manufacturers, distributors, and manufacturers-distributors must have their license renewal applications postmarked no later than August 15. <b>Organization Annual Reports Due.</b> Forms 35, 35A, and 35B for bingo, pickle card, and lottery/raffle activities must be postmarked no later than August 15.	<b>January 2004</b> <b>1 All State Offices Closed</b> - New Year's Day <b>7 2004 Legislative Session begins</b> (60-day session with last day anticipated in May). <b>19 All State Offices Closed</b> - Martin Luther King Day <b>30 Form 51 Tax Return and Applicable Schedule(s) Due.</b> Must be postmarked no later than January 30. <b>Organization Quarterly Reports Due.</b> Form 35C for bingo activities must be postmarked by January 30.
<b>September 2003</b> <b>1 All State Offices Closed</b> - Labor Day <b>30 Licenses for Bingo, Pickle Card, Lottery/Raffle, Commercial Lessor, Manufacturer, Distributor, and Manufacturer-Distributor issued for the 2001-03 License Year Expire at Midnight.</b> <b>Last Day of Quarter (July 1 through September 30)</b>	<b>February 2004</b> <b>16 All State Offices Closed</b> - President's Day <b>March 2004</b> <b>31 Last Day of Quarter (January 1 through March 31)</b>
<b>October 2003</b> <b>1 First day of 2003-2005 Biennial License Period for those issued licenses expiring September 30, 2005.</b> This includes licenses issued for Bingo, Pickle Card, and Lottery/Raffle to specified applicants, and all pickle card operators, commercial lessors, manufacturers, distributors, and manufacturers-distributors. <b>13 All State Offices Closed</b> - Columbus Day <b>30 Form 51 Tax Return and Applicable Schedule(s) Due.</b> Must be postmarked no later than October 30. <b>Organization Quarterly Reports Due.</b> Form 35C for bingo activities must be postmarked by October 30.	<b>April 2004</b> <b>1 County/City Lottery County, City, Village, Lottery Operator, and Sales Outlet Location License Renewal Applications Due.</b> Counties, cities, villages, lottery operators, and sales outlets must have their license renewal applications postmarked no later than April 1, 2004. <b>30 All State Offices Closed</b> - Arbor Day <b>Form 51 Tax Return and Applicable Schedule(s) Due.</b> Must be postmarked no later than April 30. <b>Organization Quarterly Reports Due.</b> Form 35C for bingo activities must be postmarked by April 30.
<b>November 2003</b> <b>11 All State Offices Closed</b> - Veterans' Day <b>15 2004 Pickle Card Dispensing Device Registration Renewals Due.</b> Applications to renew registration of pickle card dispensing devices must be postmarked by November 15. <b>27-28 All State Offices Closed</b> - Thanksgiving Holiday	<b>May 2004</b> <b>31 All State Offices Closed</b> - Memorial Day <b>Licenses for County/City Lottery (County, City, Village, Lottery Operator, and Sales Outlet Location) issued for the 2002-04 License Period Expire at Midnight.</b> <b>June 2004</b> <b>1 First day of 2004-2006 Biennial License Period for County/City Lottery (County, City, Village, Lottery Operator, and Sales Outlet Location) Licenses.</b> <b>30 End of 2003-2004 Annual Reporting Period</b> <b>Last Day of Quarter (April 1 through June 30)</b>



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